

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 15, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 1, 2013

## **SENATE BILL**

**No. 43**

**Introduced by Senator Wolk**

**(Coauthors: Senators Corbett and Pavley)**

(Coauthors: Assembly Members Levine, Skinner, and Williams)

December 11, 2012

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An act to amend Section 25100 of the Corporations Code, and to amend Sections 216, 218, and 365.1 of, and to add Chapter 7.6 (commencing with Section 2831) to Part 2 of Division 1 of, the Public Utilities Code, relating to energy.

### LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Wolk. Shared Renewable Energy Self-Generation Program.

(1) Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, the local government renewable energy self-generation program authorizes a local government to receive a bill credit to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account.

This bill would enact the Shared Renewable Energy Self-Generation Program. The program would authorize a retail customer of an electrical corporation to acquire an interest, as defined, in a shared renewable energy facility, as defined, for the purpose of receiving a bill credit to offset all or a portion of the customer's electricity usage, consistent with specified requirements.

The bill would provide that any corporation or person engaged directly or indirectly in developing, owning, producing, delivering, participating in, or selling interests in, a shared renewable energy facility is not a public utility or electrical corporation solely by reason of engaging in any of those activities.

(2) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of the bill would require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 25100 of the Corporations Code is
- 2 amended to read:
- 3 25100. The following securities are exempted from Sections
- 4 25110, 25120, and 25130:
- 5 (a) Any security (including a revenue obligation) issued or
- 6 guaranteed by the United States, any state, any city, county, city
- 7 and county, public district, public authority, public corporation,
- 8 public entity, or political subdivision of a state or any agency or
- 9 corporate or other instrumentality of any one or more of the
- 10 foregoing; or any certificate of deposit for any of the foregoing.
- 11 (b) Any security issued or guaranteed by Canada, any Canadian
- 12 province, any political subdivision or municipality of that province,

1 or by any other foreign government with which the United States  
2 currently maintains diplomatic relations, if the security is  
3 recognized as a valid obligation by the issuer or guarantor; or any  
4 certificate of deposit for any of the foregoing.

5 (c) Any security issued or guaranteed by and representing an  
6 interest in or a direct obligation of a national bank or a bank or  
7 trust company incorporated under the laws of this state, and any  
8 security issued by a bank to one or more other banks and  
9 representing an interest in an asset of the issuing bank.

10 (d) Any security issued or guaranteed by a federal savings  
11 association or federal savings bank or federal land bank or joint  
12 land bank or national farm loan association or by any savings  
13 association, as defined in subdivision (a) of Section 5102 of the  
14 Financial Code, which is subject to the supervision and regulation  
15 of the Commissioner of Financial Institutions of this state.

16 (e) Any security (other than an interest in all or portions of a  
17 parcel or parcels of real property which are subdivided land or a  
18 subdivision or in a real estate development), the issuance of which  
19 is subject to authorization by the Insurance Commissioner, the  
20 Public Utilities Commission, or the Real Estate Commissioner of  
21 this state.

22 (f) Any security consisting of any interest in all or portions of  
23 a parcel or parcels of real property which are subdivided lands or  
24 a subdivision or in a real estate development; provided that the  
25 exemption in this subdivision shall not be applicable to: (1) any  
26 investment contract sold or offered for sale with, or as part of, that  
27 interest, or (2) any person engaged in the business of selling,  
28 distributing, or supplying water for irrigation purposes or domestic  
29 use that is not a public utility except that the exemption is  
30 applicable to any security of a mutual water company (other than  
31 an investment contract as described in paragraph (1)) offered or  
32 sold in connection with subdivided lands pursuant to Chapter 2  
33 (commencing with Section 14310) of Part 7 of Division 3 of Title  
34 1.

35 (g) Any mutual capital certificates or savings accounts, as  
36 defined in the Savings Association Law, issued by a savings  
37 association, as defined by subdivision (a) of Section 5102 of the  
38 Financial Code, and holding a license or certificate of authority  
39 then in force from the Commissioner of Financial Institutions of  
40 this state.

1 (h) Any security issued or guaranteed by any federal credit  
2 union, or by any credit union organized and supervised, or  
3 regulated, under the Credit Union Law.

4 (i) Any security issued or guaranteed by any railroad, other  
5 common carrier, public utility, or public utility holding company  
6 which is (1) subject to the jurisdiction of the Interstate Commerce  
7 Commission or its successor or (2) a holding company registered  
8 with the Securities and Exchange Commission under the Public  
9 Utility Holding Company Act of 1935 or a subsidiary of that  
10 company within the meaning of that act or (3) regulated in respect  
11 of the issuance or guarantee of the security by a governmental  
12 authority of the United States, of any state, of Canada or of any  
13 Canadian province; and the security is subject to registration with  
14 or authorization of issuance by that authority.

15 (j) Any security (except evidences of indebtedness, whether  
16 interest bearing or not) of an issuer (1) organized exclusively for  
17 educational, benevolent, fraternal, religious, charitable, social, or  
18 reformatory purposes and not for pecuniary profit, if no part of the  
19 net earnings of the issuer inures to the benefit of any private  
20 shareholder or individual, or (2) organized as a chamber of  
21 commerce or trade or professional association. The fact that  
22 amounts received from memberships or dues or both will or may  
23 be used to construct or otherwise acquire facilities for use by  
24 members of the nonprofit organization does not disqualify the  
25 organization for this exemption. This exemption does not apply  
26 to the securities of any nonprofit organization if any promoter  
27 thereof expects or intends to make a profit directly or indirectly  
28 from any business or activity associated with the organization or  
29 operation of that nonprofit organization or from remuneration  
30 received from that nonprofit organization.

31 (k) Any agreement, commonly known as a “life income  
32 contract,” of an issuer (1) organized exclusively for educational,  
33 benevolent, fraternal, religious, charitable, social, or reformatory  
34 purposes and not for pecuniary profit and (2) which the  
35 commissioner designates by rule or order, with a donor in  
36 consideration of a donation of property to that issuer and providing  
37 for the payment to the donor or persons designated by him or her  
38 of income or specified periodic payments from the donated  
39 property or other property for the life of the donor or those other  
40 persons.

1 (l) Any note, draft, bill of exchange, or banker's acceptance  
2 which is freely transferable and of prime quality, arises out of a  
3 current transaction or the proceeds of which have been or are to  
4 be used for current transactions, and which evidences an obligation  
5 to pay cash within nine months of the date of issuance, exclusive  
6 of days of grace, or any renewal of that paper which is likewise  
7 limited, or any guarantee of that paper or of that renewal, provided  
8 that the paper is not offered to the public in amounts of less than  
9 twenty-five thousand dollars (\$25,000) in the aggregate to any one  
10 purchaser. In addition, the commissioner may, by rule or order,  
11 exempt any issuer of any notes, drafts, bills of exchange or banker's  
12 acceptances from qualification of those securities when the  
13 commissioner finds that the qualification is not necessary or  
14 appropriate in the public interest or for the protection of investors.

15 (m) Any security issued by any corporation organized and  
16 existing under the provisions of Chapter 1 (commencing with  
17 Section 54001) of Division 20 of the Food and Agricultural Code.

18 (n) Any beneficial interest in an employees' pension,  
19 profit-sharing, stock bonus or similar benefit plan which meets the  
20 requirements for qualification under Section 401 of the federal  
21 Internal Revenue Code or any statute amendatory thereof or  
22 supplementary thereto. A determination letter from the Internal  
23 Revenue Service stating that an employees' pension, profit-sharing,  
24 stock bonus or similar benefit plan meets those requirements shall  
25 be conclusive evidence that the plan is an employees' pension,  
26 profit-sharing, stock bonus or similar benefit plan within the  
27 meaning of the first sentence of this subdivision until the date the  
28 determination letter is revoked in writing by the Internal Revenue  
29 Service, regardless of whether or not the revocation is retroactive.

30 (o) Any security listed or approved for listing upon notice of  
31 issuance on a national securities exchange, if the exchange has  
32 been certified by rule or order of the commissioner and any warrant  
33 or right to purchase or subscribe to the security. The exemption  
34 afforded by this subdivision does not apply to securities listed or  
35 approved for listing upon notice of issuance on a national securities  
36 exchange, in a rollup transaction unless the rollup transaction is  
37 an eligible rollup transaction as defined in Section 25014.7.

38 That certification of any exchange shall be made by the  
39 commissioner upon the written request of the exchange if the  
40 commissioner finds that the exchange, in acting on applications

1 for listing of common stock, substantially applies the minimum  
2 standards set forth in either subparagraph (A) or (B) of paragraph  
3 (1), and, in considering suspension or removal from listing,  
4 substantially applies each of the criteria set forth in paragraph (2).

5 (1) Listing standards:

6 (A) (i) Shareholders' equity of at least four million dollars  
7 (\$4,000,000).

8 (ii) Pretax income of at least seven hundred fifty thousand  
9 dollars (\$750,000) in the issuer's last fiscal year or in two of its  
10 last three fiscal years.

11 (iii) Minimum public distribution of 500,000 shares (exclusive  
12 of the holdings of officers, directors, controlling shareholders, and  
13 other concentrated or family holdings), together with a minimum  
14 of 800 public holders or minimum public distribution of 1,000,000  
15 shares together with a minimum of 400 public holders. The  
16 exchange may also consider the listing of a company's securities  
17 if the company has a minimum of 500,000 shares publicly held, a  
18 minimum of 400 shareholders and daily trading volume in the  
19 issue has been approximately 2,000 shares or more for the six  
20 months preceding the date of application. In evaluating the  
21 suitability of an issue for listing under this trading provision, the  
22 exchange shall review the nature and frequency of that activity  
23 and any other factors as it may determine to be relevant in  
24 ascertaining whether the issue is suitable for trading. A security  
25 that trades infrequently shall not be considered for listing under  
26 this paragraph even though average daily volume amounts to 2,000  
27 shares per day or more.

28 Companies whose securities are concentrated in a limited  
29 geographical area, or whose securities are largely held in block by  
30 institutional investors, normally may not be considered eligible  
31 for listing unless the public distribution appreciably exceeds  
32 500,000 shares.

33 (iv) Minimum price of three dollars (\$3) per share for a  
34 reasonable period of time prior to the filing of a listing application;  
35 provided, however, in certain instances an exchange may favorably  
36 consider listing an issue selling for less than three dollars (\$3) per  
37 share after considering all pertinent factors, including market  
38 conditions in general, whether historically the issue has sold above  
39 three dollars (\$3) per share, the applicant's capitalization, and the  
40 number of outstanding and publicly held shares of the issue.

1 (v) An aggregate market value for publicly held shares of at  
2 least three million dollars (\$3,000,000).

3 (B) (i) Shareholders' equity of at least four million dollars  
4 (\$4,000,000).

5 (ii) Minimum public distribution set forth in clause (iii) of  
6 subparagraph (A) of paragraph (1).

7 (iii) Operating history of at least three years.

8 (iv) An aggregate market value for publicly held shares of at  
9 least fifteen million dollars (\$15,000,000).

10 (2) Criteria for consideration of suspension or removal from  
11 listing:

12 ~~(i)~~

13 (A) If a company that ~~(A)~~ (i) has shareholders' equity of less  
14 than one million dollars (\$1,000,000) has sustained net losses in  
15 each of its two most recent fiscal years, or ~~(B)~~ (ii) has net tangible  
16 assets of less than three million dollars (\$3,000,000) and has  
17 sustained net losses in three of its four most recent fiscal years.

18 ~~(ii)~~

19 (B) If the number of shares publicly held (excluding the holdings  
20 of officers, directors, controlling shareholders and other  
21 concentrated or family holdings) is less than 150,000.

22 ~~(iii)~~

23 (C) If the total number of shareholders is less than 400 or if the  
24 number of shareholders of lots of 100 shares or more is less than  
25 300.

26 ~~(iv)~~

27 (D) If the aggregate market value of shares publicly held is less  
28 than seven hundred fifty thousand dollars (\$750,000).

29 ~~(v)~~

30 (E) If shares of common stock sell at a price of less than three  
31 dollars (\$3) per share for a substantial period of time and the issuer  
32 shall fail to effectuate a reverse stock split of the shares within a  
33 reasonable period of time after being requested by the exchange  
34 to take that action.

35 A national securities exchange, certified by rule or order of the  
36 commissioner under this subdivision, shall file annual reports when  
37 requested to do so by the commissioner. The annual reports shall  
38 contain, by issuer: the variances granted to an exchange's listing  
39 standards, including variances from corporate governance and  
40 voting rights' standards, for any security of that issuer; the reasons

1 for the variances; a discussion of the review procedure instituted  
2 by the exchange to determine the effect of the variances on  
3 investors and whether the variances should be continued; and any  
4 other information that the commissioner deems relevant. The  
5 purpose of these reports is to assist the commissioner in  
6 determining whether the quantitative and qualitative requirements  
7 of this subdivision are substantially being met by the exchange in  
8 general or with regard to any particular security.

9 The commissioner after appropriate notice and opportunity for  
10 hearing in accordance with the provisions of the Administrative  
11 Procedure Act, Chapter 5 (commencing with Section 11500) of  
12 Part 1 of Division 3 of Title 2 of the Government Code, may, in  
13 his or her discretion, by rule or order, decertify any exchange  
14 previously certified that ceases substantially to apply the minimum  
15 standards or criteria as set forth in paragraphs (1) and (2).

16 A rule or order of certification shall conclusively establish that  
17 any security listed or approved for listing upon notice of issuance  
18 on any exchange named in a rule or order of certification, and any  
19 warrant or right to purchase or subscribe to that security, is exempt  
20 under this subdivision until the adoption by the commissioner of  
21 any rule or order decertifying the exchange.

22 (p) A promissory note secured by a lien on real property, which  
23 is neither one of a series of notes of equal priority secured by  
24 interests in the same real property nor a note in which beneficial  
25 interests are sold to more than one person or entity.

26 (q) Any unincorporated interindemnity or reciprocal or  
27 interinsurance contract, that qualifies under the provisions of  
28 Section 1280.7 of the Insurance Code, between members of a  
29 cooperative corporation, organized and operating under Part 2  
30 (commencing with Section 12200) of Division 3 of Title 1, and  
31 whose members consist only of physicians and surgeons licensed  
32 in California, which contracts indemnify solely in respect to  
33 medical malpractice claims against the members, and which do  
34 not collect in advance of loss any moneys other than contributions  
35 by each member to a collective reserve trust fund or for necessary  
36 expenses of administration.

37 (1) Whenever it appears to the commissioner that any person  
38 has engaged or is about to engage in any act or practice constituting  
39 a violation of any provision of Section 1280.7 of the Insurance  
40 Code, the commissioner may, in the commissioner's discretion,



1 bring an action in the name of the people of the State of California  
2 in the superior court to enjoin the acts or practices or to enforce  
3 compliance with Section 1280.7 of the Insurance Code. Upon a  
4 proper showing a permanent or preliminary injunction, a restraining  
5 order, or a writ of mandate shall be granted and a receiver or  
6 conservator may be appointed for the defendant or the defendant's  
7 assets.

8 (2) The commissioner may, in the commissioner's discretion,  
9 (A) make public or private investigations within or outside of this  
10 state as the commissioner deems necessary to determine whether  
11 any person has violated or is about to violate any provision of  
12 Section 1280.7 of the Insurance Code or to aid in the enforcement  
13 of Section 1280.7, and (B) publish information concerning the  
14 violation of Section 1280.7.

15 (3) For the purpose of any investigation or proceeding under  
16 this section, the commissioner or any officer designated by the  
17 commissioner may administer oaths and affirmations, subpoena  
18 witnesses, compel their attendance, take evidence, and require the  
19 production of any books, papers, correspondence, memoranda,  
20 agreements, or other documents or records which the commissioner  
21 deems relevant or material to the inquiry.

22 (4) In case of contumacy by, or refusal to obey a subpoena  
23 issued to, any person, the superior court, upon application by the  
24 commissioner, may issue to the person an order requiring the  
25 person to appear before the commissioner, or the officer designated  
26 by the commissioner, to produce documentary evidence, if so  
27 ordered, or to give evidence touching the matter under investigation  
28 or in question. Failure to obey the order of the court may be  
29 punished by the court as a contempt.

30 (5) No person is excused from attending or testifying or from  
31 producing any document or record before the commissioner or in  
32 obedience to the subpoena of the commissioner or any officer  
33 designated by the commissioner, or in any proceeding instituted  
34 by the commissioner, on the ground that the testimony or evidence  
35 (documentary or otherwise), required of the person may tend to  
36 incriminate the person or subject the person to a penalty or  
37 forfeiture, but no individual may be prosecuted or subjected to any  
38 penalty or forfeiture for or on account of any transaction, matter,  
39 or thing concerning which the person is compelled, after validly  
40 claiming the privilege against self-incrimination, to testify or

1 produce evidence (documentary or otherwise), except that the  
2 individual testifying is not exempt from prosecution and  
3 punishment for perjury or contempt committed in testifying.

4 (6) The cost of any review, examination, audit, or investigation  
5 made by the commissioner under Section 1280.7 of the Insurance  
6 Code shall be paid to the commissioner by the person subject to  
7 the review, examination, audit, or investigation, and the  
8 commissioner may maintain an action for the recovery of these  
9 costs in any court of competent jurisdiction. In determining the  
10 cost, the commissioner may use the actual amount of the salary or  
11 other compensation paid to the persons making the review,  
12 examination, audit, or investigation plus the actual amount of  
13 expenses including overhead reasonably incurred in the  
14 performance of the work.

15 The recoverable cost of each review, examination, audit, or  
16 investigation made by the commissioner under Section 1280.7 of  
17 the Insurance Code shall not exceed twenty-five thousand dollars  
18 (\$25,000), except that costs exceeding twenty-five thousand dollars  
19 (\$25,000) shall be recoverable if the costs are necessary to prevent  
20 a violation of any provision of Section 1280.7 of the Insurance  
21 Code.

22 (r) Any shares or memberships issued by any corporation  
23 organized and existing pursuant to the provisions of Part 2  
24 (commencing with Section 12200) of Division 3 of Title 1,  
25 provided the aggregate investment of any shareholder or member  
26 in shares or memberships sold pursuant to this subdivision does  
27 not exceed three hundred dollars (\$300). This exemption does not  
28 apply to the shares or memberships of that corporation if any  
29 promoter thereof expects or intends to make a profit directly or  
30 indirectly from any business or activity associated with the  
31 corporation or the operation of the corporation or from  
32 remuneration, other than reasonable salary, received from the  
33 corporation. This exemption does not apply to nonvoting shares  
34 or memberships of that corporation issued to any person who does  
35 not possess, and who will not acquire in connection with the  
36 issuance of nonvoting shares or memberships, voting power  
37 (Section 12253) in the corporation. This exemption also does not  
38 apply to shares or memberships issued by a nonprofit cooperative  
39 corporation organized to facilitate the creation of an unincorporated  
40 interindemnity arrangement that provides indemnification for

1 medical malpractice to its physician and surgeon members as set  
2 forth in subdivision (q).

3 (s) Any security consisting of or representing an interest in a  
4 pool of mortgage loans that meets each of the following  
5 requirements:

6 (1) The pool consists of whole mortgage loans or participation  
7 interests in those loans, which loans were originated or acquired  
8 in the ordinary course of business by a national bank or federal  
9 savings association or federal savings bank having its principal  
10 office in this state, by a bank incorporated under the laws of this  
11 state or by a savings association as defined in subdivision (a) of  
12 Section 5102 of the Financial Code and which is subject to the  
13 supervision and regulation of the Commissioner of Financial  
14 Institutions, and each of which at the time of transfer to the pool  
15 is an authorized investment for the originating or acquiring  
16 institution.

17 (2) The pool of mortgage loans is held in trust by a trustee which  
18 is a financial institution specified in paragraph (1) as trustee or  
19 otherwise.

20 (3) The loans are serviced by a financial institution specified in  
21 paragraph (1).

22 (4) The security is not offered in amounts of less than  
23 twenty-five thousand dollars (\$25,000) in the aggregate to any one  
24 purchaser.

25 (5) The security is offered pursuant to a registration under the  
26 Securities Act of 1933, or pursuant to an exemption under  
27 Regulation A under that act, or in the opinion of counsel for the  
28 issuer, is offered pursuant to an exemption under Section 4(2) of  
29 that act.

30 (t) (1) Any security issued or guaranteed by and representing  
31 an interest in or a direct obligation of an industrial loan company  
32 incorporated under the laws of the state and authorized by the  
33 Commissioner of Financial Institutions to engage in industrial loan  
34 business.

35 (2) Any investment certificate in or issued by any industrial  
36 loan company that is organized under the laws of a state of the  
37 United States other than this state, that is insured by the Federal  
38 Deposit Insurance Corporation, and that maintains a branch office  
39 in this state.

1 (u) Any right to a bill credit or interest of a participant in a  
2 shared renewable energy facility pursuant to Chapter 7.5  
3 (commencing with Section 2830) of Part 2 of Division 1 of the  
4 Public Utilities Code.

5 SEC. 2. Section 216 of the Public Utilities Code is amended  
6 to read:

7 216. (a) “Public utility” includes every common carrier, toll  
8 bridge corporation, pipeline corporation, gas corporation, electrical  
9 corporation, telephone corporation, telegraph corporation, water  
10 corporation, sewer system corporation, and heat corporation, where  
11 the service is performed for, or the commodity is delivered to, the  
12 public or any portion thereof.

13 (b) Whenever any common carrier, toll bridge corporation,  
14 pipeline corporation, gas corporation, electrical corporation,  
15 telephone corporation, telegraph corporation, water corporation,  
16 sewer system corporation, or heat corporation performs a service  
17 for, or delivers a commodity to, the public or any portion thereof  
18 for which any compensation or payment whatsoever is received,  
19 that common carrier, toll bridge corporation, pipeline corporation,  
20 gas corporation, electrical corporation, telephone corporation,  
21 telegraph corporation, water corporation, sewer system corporation,  
22 or heat corporation, is a public utility subject to the jurisdiction,  
23 control, and regulation of the commission and the provisions of  
24 this part.

25 (c) When any person or corporation performs any service for,  
26 or delivers any commodity to, any person, private corporation,  
27 municipality, or other political subdivision of the state, that in turn  
28 either directly or indirectly, mediately or immediately, performs  
29 that service for, or delivers that commodity to, the public or any  
30 portion thereof, that person or corporation is a public utility subject  
31 to the jurisdiction, control, and regulation of the commission and  
32 the provisions of this part.

33 (d) Ownership or operation of a facility that employs  
34 cogeneration technology or produces power from other than a  
35 conventional power source or the ownership or operation of a  
36 facility which employs landfill gas technology does not make a  
37 corporation or person a public utility within the meaning of this  
38 section solely because of the ownership or operation of that facility.

39 (e) Any corporation or person engaged directly or indirectly in  
40 developing, producing, transmitting, distributing, delivering, or

1 selling any form of heat derived from geothermal or solar resources  
2 or from cogeneration technology to any privately owned or publicly  
3 owned public utility, or to the public or any portion thereof, is not  
4 a public utility within the meaning of this section solely by reason  
5 of engaging in any of those activities.

6 (f) The ownership or operation of a facility that sells compressed  
7 natural gas at retail to the public for use only as a motor vehicle  
8 fuel, and the selling of compressed natural gas at retail from that  
9 facility to the public for use only as a motor vehicle fuel, does not  
10 make the corporation or person a public utility within the meaning  
11 of this section solely because of that ownership, operation, or sale.

12 (g) Ownership or operation of a facility that is an exempt  
13 wholesale generator, as defined in the Public Utility Holding  
14 Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make  
15 a corporation or person a public utility within the meaning of this  
16 section, solely due to the ownership or operation of that facility.

17 (h) The ownership, control, operation, or management of an  
18 electric plant used for direct transactions or participation directly  
19 or indirectly in direct transactions, as permitted by subdivision (b)  
20 of Section 365, sales into a market established and operated by the  
21 Independent System Operator or any other wholesale electricity  
22 market, or the use or sale as permitted under subdivisions (b) to  
23 (d), inclusive, of Section 218, shall not make a corporation or  
24 person a public utility within the meaning of this section solely  
25 because of that ownership, participation, or sale.

26 (i) The ownership, control, operation, or management of a  
27 facility that supplies electricity to the public only for use to charge  
28 light duty plug-in electric vehicles does not make the corporation  
29 or person a public utility within the meaning of this section solely  
30 because of that ownership, control, operation, or management. For  
31 purposes of this subdivision, “light duty plug-in electric vehicles”  
32 includes light duty battery electric and plug-in hybrid electric  
33 vehicles. This subdivision does not affect the commission’s  
34 authority under Section 454 or 740.2 or any other applicable statute.

35 (j) A corporation or person engaged directly or indirectly in  
36 developing, owning, producing, delivering, participating in, or  
37 selling interests in a shared renewable energy facility, pursuant to  
38 Chapter 7.5 (commencing with Section 2830) of Part 2, is not a  
39 public utility within the meaning of this section solely by reason  
40 of engaging in any of those activities.

SEC. 3. Section 218 of the Public Utilities Code is amended to read:

218. (a) “Electrical corporation” includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others.

(b) “Electrical corporation” does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the following purposes:

(1) Its own use or the use of its tenants.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto, unless there is an intervening public street constituting the boundary between the real property on which the electricity is generated and the immediately adjacent property and one or more of the following applies:

(A) The real property on which the electricity is generated and the immediately adjacent real property is not under common ownership or control, or that common ownership or control was gained solely for purposes of sale of the electricity so generated and not for other business purposes.

(B) The useful thermal output of the facility generating the electricity is not used on the immediately adjacent property for petroleum production or refining.

(C) The electricity furnished to the immediately adjacent property is not utilized by a subsidiary or affiliate of the corporation or person generating the electricity.

(3) Sale or transmission to an electrical corporation or state or local public agency, but not for sale or transmission to others, unless the corporation or person is otherwise an electrical corporation.

(c) “Electrical corporation” does not include a corporation or person employing landfill gas technology for the generation of electricity for any one or more of the following purposes:

(1) Its own use or the use of not more than two of its tenants located on the real property on which the electricity is generated.

1 (2) The use of or sale to not more than two other corporations  
2 or persons solely for use on the real property on which the  
3 electricity is generated.

4 (3) Sale or transmission to an electrical corporation or state or  
5 local public agency.

6 (d) “Electrical corporation” does not include a corporation or  
7 person employing digester gas technology for the generation of  
8 electricity for any one or more of the following purposes:

9 (1) Its own use or the use of not more than two of its tenants  
10 located on the real property on which the electricity is generated.

11 (2) The use of or sale to not more than two other corporations  
12 or persons solely for use on the real property on which the  
13 electricity is generated.

14 (3) Sale or transmission to an electrical corporation or state or  
15 local public agency, if the sale or transmission of the electricity  
16 service to a retail customer is provided through the transmission  
17 system of the existing local publicly owned electric utility or  
18 electrical corporation of that retail customer.

19 (e) “Electrical corporation” does not include an independent  
20 solar energy producer, as defined in Article 3 (commencing with  
21 Section 2868) of Chapter 9 of Part 2.

22 (f) The amendments made to this section at the 1987 portion of  
23 the 1987–88 Regular Session of the Legislature do not apply to  
24 any corporation or person employing cogeneration technology or  
25 producing power from other than a conventional power source for  
26 the generation of electricity that physically produced electricity  
27 prior to January 1, 1989, and furnished that electricity to  
28 immediately adjacent real property for use thereon prior to January  
29 1, 1989.

30 (g) A corporation or person engaged directly or indirectly in  
31 developing, owning, producing, delivering, participating in, or  
32 selling interests in a shared renewable energy facility, pursuant to  
33 Chapter 7.5 (commencing with Section 2830) of Part 2, is not an  
34 electrical corporation within the meaning of this section solely by  
35 reason of engaging in any of those activities.

36 SEC. 4. Section 365.1 of the Public Utilities Code is amended  
37 to read:

38 365.1. (a) Except as expressly authorized by this section, and  
39 subject to the limitations in subdivisions (b) and (c), the right of  
40 retail end-use customers pursuant to this chapter to acquire service

1 from other providers is suspended until the Legislature, by statute,  
2 lifts the suspension or otherwise authorizes direct transactions. For  
3 purposes of this section, “other provider” means any person,  
4 corporation, or other entity that is authorized to provide electric  
5 service within the service territory of an electrical corporation  
6 pursuant to this chapter, and includes an aggregator, broker, or  
7 marketer, as defined in Section 331, and an electric service  
8 provider, as defined in Section 218.3. “Other provider” does not  
9 include a community choice aggregator, as defined in Section  
10 331.1, and the limitations in this section do not apply to the sale  
11 of electricity by “other providers” to a community choice  
12 aggregator for resale to community choice aggregation electricity  
13 consumers pursuant to Section 366.2. “Other provider” does not  
14 include a “provider” as defined in subdivision (j) of Section 2832  
15 or any corporation or person engaged directly or indirectly in  
16 developing, owning, producing, delivering, participating in, or  
17 selling interests in a shared renewable energy facility, pursuant to  
18 Chapter 7.5 (commencing with Section 2830) of Part 2, solely by  
19 reason of engaging in any of those activities.

20 (b) The commission shall allow individual retail nonresidential  
21 end-use customers to acquire electric service from other providers  
22 in each electrical corporation’s distribution service territory, up to  
23 a maximum allowable total kilowatthours annual limit. The  
24 maximum allowable annual limit shall be established by the  
25 commission for each electrical corporation at the maximum total  
26 kilowatthours supplied by all other providers to distribution  
27 customers of that electrical corporation during any sequential  
28 12-month period between April 1, 1998, and the effective date of  
29 this section. Within six months of the effective date of this section,  
30 or by July 1, 2010, whichever is sooner, the commission shall  
31 adopt and implement a reopening schedule that commences  
32 immediately and will phase in the allowable amount of increased  
33 kilowatthours over a period of not less than three years, and not  
34 more than five years, raising the allowable limit of kilowatthours  
35 supplied by other providers in each electrical corporation’s  
36 distribution service territory from the number of kilowatthours  
37 provided by other providers as of the effective date of this section,  
38 to the maximum allowable annual limit for that electrical  
39 corporation’s distribution service territory. The commission shall  
40 review and, if appropriate, modify its currently effective rules



governing direct transactions, but that review shall not delay the start of the phase-in schedule.

(c) Once the commission has authorized additional direct transactions pursuant to subdivision (b), it shall do both of the following:

(1) Ensure that other providers are subject to the same requirements that are applicable to the state's three largest electrical corporations under any programs or rules adopted by the commission to implement the resource adequacy provisions of Section 380, the renewables portfolio standard provisions of Article 16 (commencing with Section 399.11), and the requirements for the electricity sector adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code). This requirement applies notwithstanding any prior decision of the commission to the contrary.

(2) (A) Ensure that, in the event that the commission authorizes, in the situation of a contract with a third party, or orders, in the situation of utility-owned generation, an electrical corporation to obtain generation resources that the commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation's distribution service territory, the net capacity costs of those generation resources are allocated on a fully nonbypassable basis consistent with departing load provisions as determined by the commission, to all of the following:

(i) Bundled service customers of the electrical corporation.

(ii) Customers that purchase electricity through a direct transaction with other providers.

(iii) Customers of community choice aggregators.

(B) If the commission authorizes or orders an electrical corporation to obtain generation resources pursuant to subparagraph (A), the commission shall ensure that those resources meet a system or local reliability need in a manner that benefits all customers of the electrical corporation. The commission shall allocate the costs of those generation resources to ratepayers in a manner that is fair and equitable to all customers, whether they receive electric service from the electrical corporation, a community choice aggregator, or an electric service provider.

(C) The resource adequacy benefits of generation resources acquired by an electrical corporation pursuant to subparagraph (A) shall be allocated to all customers who pay their net capacity costs. Net capacity costs shall be determined by subtracting the energy and ancillary services value of the resource from the total costs paid by the electrical corporation pursuant to a contract with a third party or the annual revenue requirement for the resource if the electrical corporation directly owns the resource. An energy auction shall not be required as a condition for applying this allocation, but may be allowed as a means to establish the energy and ancillary services value of the resource for purposes of determining the net costs of capacity to be recovered from customers pursuant to this paragraph, and the allocation of the net capacity costs of contracts with third parties shall be allowed for the terms of those contracts.

(D) It is the intent of the Legislature, in enacting this paragraph, to provide additional guidance to the commission with respect to the implementation of subdivision (g) of Section 380, as well as to ensure that the customers to whom the net costs and benefits of capacity are allocated are not required to pay for the cost of electricity they do not consume.

(d) (1) If the commission approves a centralized resource adequacy mechanism pursuant to subdivisions (h) and (i) of Section 380, upon the implementation of the centralized resource adequacy mechanism the requirements of paragraph (2) of subdivision (c) shall be suspended. If the commission later orders that electrical corporations cease procuring capacity through a centralized resource adequacy mechanism, the requirements of paragraph (2) of subdivision (c) shall again apply.

(2) If the use of a centralized resource adequacy mechanism is authorized by the commission and has been implemented as set forth in paragraph (1), the net capacity costs of generation resources that the commission determines are required to meet urgent system or urgent local grid reliability needs, and that the commission authorizes to be procured outside of the Section 380 or Section 454.5 processes, shall be recovered according to the provisions of paragraph (2) of subdivision (c).

(3) Nothing in this subdivision supplants the resource adequacy requirements of Section 380 or the resource procurement procedures established in Section 454.5.

1 (e) The commission may report to the Legislature on the efficacy  
2 of authorizing individual retail end-use residential customers to  
3 enter into direct transactions, including appropriate consumer  
4 protections.

5 SEC. 5. Chapter 7.6 (commencing with Section 2831) is added  
6 to Part 2 of Division 1 of the Public Utilities Code, to read:

7  
8 CHAPTER 7.6. SHARED RENEWABLE ENERGY SELF-GENERATION  
9 PROGRAM

10  
11 2831. The Legislature finds and declares all of the following:

12 (a) The creation of renewable energy within California provides  
13 significant financial, health, environmental, and workforce benefits  
14 to the State of California.

15 (b) The California Solar Initiative has been extremely successful,  
16 resulting in over 140,000 residential and commercial onsite  
17 installations of solar energy systems. However, it cannot reach all  
18 residents and businesses that want to participate and is limited to  
19 ~~solar~~ solar energy. The Shared Renewable Energy Self-Generation  
20 Program seeks to build on this success by expanding access to  
21 renewable energy resources to all ratepayers ~~who~~ that are currently  
22 unable to access the benefits of onsite generation, without shifting  
23 costs to nonparticipants.

24 (c) The Governor has proposed the Clean Energy Jobs ~~Plan~~  
25 ~~Plan~~, calling for the development of 20,000 megawatts of  
26 generation from ~~distributed~~ renewable energy resources by 2020.  
27 There is widespread interest from many large institutional  
28 customers, including schools, colleges, universities, local  
29 governments, businesses, and the military, for development of  
30 renewable generation facilities to serve more than 33 percent of  
31 their energy needs. For these reasons, the Legislature agrees that  
32 the Governor's Clean Energy Jobs Plan represents a desired policy  
33 direction for the state.

34 (d) Properly designed, shared renewable energy programs can  
35 provide access and cost savings to underserved communities, such  
36 as low- to moderate-income residents, and residential and  
37 commercial renters, without shifting costs to nonparticipants.

38 (e) Public institutions will benefit from the Shared Renewable  
39 Energy Self-Generation Program's enhanced flexibility to  
40 participate in shared renewable energy facilities. Electricity usage

1 is one of the most significant cost pressures facing public  
2 institutions at a time when they have been forced to cut essential  
3 programs, increase classroom sizes, and lay off teachers. Schools  
4 may use the savings for restoring funds for salaries, facility  
5 maintenance, and other budgetary needs.

6 (f) Shared renewable energy self-generation creates jobs, reduces  
7 emissions of greenhouse gases, and promotes energy independence.

8 (g) Many large energy users in California have pursued onsite  
9 renewable energy generation, but cannot achieve their goals due  
10 to rooftop or land space limitations, or size limits on net metering.  
11 The enactment of this chapter will create a mechanism whereby  
12 institutional customers such as military installations, universities,  
13 and local governments, as well as commercial customers and  
14 groups of individuals, can efficiently invest in generating electricity  
15 from renewable generation.

16 (h) Therefore, it is the intent of the Legislature that this program  
17 be implemented in such a manner as to create a large, sustainable  
18 market for the purchase of an interest in offsite renewable  
19 generation, while fairly compensating electrical corporations for  
20 the services they provide.

21 ~~(i) It is further the intent of the Legislature that the commission~~  
22 ~~minimize the rate impact the Shared Renewable Energy~~  
23 ~~Self-Generation Program has on nonparticipants, with a goal of~~  
24 ~~ratepayer indifference. To the extent that the program imposes~~  
25 ~~incremental increases in rates, the commission shall determine the~~  
26 ~~appropriate way to allocate costs, which may include equitable~~  
27 ~~allocation of costs to all customers on a nonbypassable basis.~~

28 (j)

29 (i) It is the further intent of the Legislature to preserve a thriving  
30 natural environment and to ensure that projects developed under  
31 the Shared Renewable Energy Self-Generation Program are subject  
32 to environmental protection best practices afforded under California  
33 law and policies.

34 2832. As used in this chapter, the following terms have the  
35 following meanings:

36 (a) “Benefiting account” means one or more electricity accounts  
37 designated to receive a bill credit pursuant to Section 2833 and  
38 mutually agreed upon by the facility provider and an electrical  
39 corporation.

1 (b) “Bill credit” means an amount of money credited each  
2 month, or in an otherwise applicable billing period, to one or more  
3 benefiting accounts based on the amount of the electrical output  
4 of a shared renewable energy facility that is assigned to the account  
5 pursuant to the methodology described in Section 2833.

6 (c) “Default load aggregation point price” means a  
7 commission-determined day-ahead price for electricity.

8 (d) “Energy component” means the generation portion of a  
9 customer’s otherwise applicable tariff and any other portion of the  
10 customer’s charges that the commission determines may be  
11 appropriate to offset without resulting in a net cost shift to  
12 nonparticipants.

13 (e) “Facility rate” means the per kilowatthour rate assigned to  
14 each facility built under the program, used to calculate the bill  
15 credit pursuant to the method described in paragraphs (1) and (2)  
16 of subdivision (b) of Section 2833.

17 (f) “Interest” means a direct or indirect ownership, lease,  
18 subscription, or financing interest in a shared renewable energy  
19 facility that enables the participant to receive a bill credit for a  
20 retail account with the electrical corporation.

21 (g) “Local government” means a city, county, city and county,  
22 special district, school district, public water district, public  
23 irrigation district, county office of education, political subdivision,  
24 or other local governmental entity. For the purposes of this chapter,  
25 “water district” has the same meaning as defined in Section 20200  
26 of the Water Code, and “irrigation district” means an entity formed  
27 pursuant to the Irrigation District Law set forth in Division 11  
28 (commencing with Section 20500) of the Water Code.

29 (h) “Participant” means a retail customer of an electrical  
30 corporation ~~who~~ *that* owns, leases, finances, or subscribes to an  
31 interest in a shared renewable energy facility and who has  
32 designated *at least one* ~~or more~~ of its own retail accounts as a  
33 benefiting account to which the interest shall be attributed.

34 (i) “Participant account” means a retail customer account with  
35 an electrical corporation to which a participant’s interest in a shared  
36 renewable energy facility shall be attributed.

37 (j) “Provider” means any entity whose purpose is to beneficially  
38 own or operate a shared renewable energy facility for the  
39 participants or owners of that facility, or to market an interest in  
40 the facility.

(k) “Program” means the Shared Renewable Energy Self-Generation Program established pursuant to this chapter.

(l) “Project” means the cumulative activities to build and make operational a shared renewable energy facility.

(m) “Renewable energy credit” has the same meaning as defined in Section 399.12.

(n) “Shared renewable energy facility” means a facility for the generation of electricity that meets all of the following requirements:

(1) Has a nameplate generating capacity of no more than 20 megawatts of alternating current.

(2) Is an eligible renewable energy resource pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).

(3) Has its electrical output measured by a production meter owned by the electrical corporation, that meets the tariff requirements of the electrical corporation and the Independent System Operator, and that independently measures the electricity delivered to the grid by the facility.

(4) Is located within the service territory of a California electrical corporation.

(5) Has been interconnected with the electrical grid in compliance with the tariffs of the applicable interconnection authority.

(6) Is either the PVUSA facility, meaning the photovoltaic electricity generation facility selected by the City of Davis and located at 24662 County Road, Davis, California, or is a newly constructed renewable *energy* facility constructed pursuant to this chapter, beginning commercial operation on or after June 1, 2014.

(7) The provider has, where applicable, complied with all program rules and written notice procedures that may be required by the commission.

2833. (a) (1) A retail customer of an electrical corporation having 100,000 or more service connections within the state may acquire an interest in a shared renewable energy facility for the purpose of becoming a participant and shall designate one or more benefiting accounts to which the interest shall be attributed.

(2) To be eligible to be designated as a benefiting account, the account shall be for service to premises located within the

1 geographical boundaries of the service territory of the electrical  
2 corporation containing the shared renewable energy facility.

3 (3) The participating customer's bill credit may be used to offset  
4 all or a portion of the energy component of that customer's  
5 electrical service, as provided in this chapter and in accordance  
6 with those rules that the commission may adopt.

7 (4) A participant shall not acquire an interest in a shared  
8 renewable energy facility that represents more than two megawatts  
9 of generating capacity or the equivalent amount, as denominated  
10 in kilowatthours of energy. This limitation does not apply to a  
11 federal, state, or local government, school, school district, county  
12 office of education, the California Community Colleges, the  
13 California State University, or the University of California.

14 (b) The commission shall establish a facility rate for all shared  
15 renewable energy facilities, as follows:

16 (1) The commission shall undertake a comprehensive analysis  
17 of the costs and benefits associated with shared renewable energy  
18 generation to determine the value of electricity generated by shared  
19 renewable energy facilities for the purpose of setting a facility rate.  
20 The commission shall determine the valuation methodology after  
21 notice and an opportunity to comment. The commission shall  
22 ensure that the valuation methodology does not result in a net cost  
23 shift to nonparticipants. No later than December 31, 2014, the  
24 commission shall publish facility rates for shared renewable energy  
25 facilities, differentiated by resource type, as appropriate.

26 (2) The facility rate shall be set annually as a price per  
27 kilowatthour of electricity and shall be applied at the time the  
28 provider receives an award of capacity. Once established, a facility  
29 rate shall be applicable to that facility for the operational life of  
30 the facility, except as allowed in paragraph (1) of subdivision (c).

31 (3) The commission shall publish tariffs applicable to all  
32 participants per electrical corporation, as necessary, no later than  
33 90 days following the publication of the facility rates.

34 (4) Any subsequent facility or a subsequent expansion of a  
35 facility placed in service on or after the initial award of rated  
36 generating capacity pursuant to paragraph (2) that results in an  
37 increase in the facility's capacity to produce electricity shall be  
38 subject to the facility rate in effect on the date the provider applied  
39 for an award of rated generating capacity for the subsequent facility  
40 or increase in the facility's capacity.

1 (5) The electrical corporation shall assign a monthly bill credit  
2 equal to the facility rate for each kilowatthour of energy received  
3 to the benefiting account, as directed by the provider. The bill  
4 credit shall be applied to the energy component of the benefiting  
5 account.

6 (c) (1) The commission may revise the methodology for  
7 calculating facility rates at any time that it concludes that the  
8 existing mechanism does not provide program participants with  
9 the fair value of electricity and other benefits produced by the  
10 shared renewable energy facility or overvalues the benefits to  
11 nonparticipating customers of the electrical corporation for the  
12 electricity generated by a shared renewable energy facility. Any  
13 revision to the methodology for calculating the facility rate shall  
14 apply to all new program capacity and shall also apply to existing  
15 program capacity provided the change results in an increase to the  
16 facility rate.

17 (2) By September 1, 2014, and annually by each September 1  
18 thereafter, the commission shall review the progress toward  
19 meeting the program goals for the most impacted and  
20 disadvantaged communities, and may adjust the facility rate, or  
21 facility rates, and rules for projects located in the most impacted  
22 and disadvantaged communities if it determines that an adjustment  
23 is necessary to achieve the goals and to provide equitable access  
24 to the benefits of the program.

25 (3) Any renewable energy credits associated with an interest  
26 shall be retired by either the provider or electrical corporation, as  
27 they may agree, on behalf of the participant or transferred to the  
28 Western Renewable Energy Generation Information System  
29 account of that participant, for the purpose of demonstrating the  
30 purchase of renewable energy. Those renewable energy credits  
31 shall not be further sold, transferred, or otherwise monetized by a  
32 party for any purpose. Renewable energy credits associated with  
33 electricity paid for by the electrical corporation shall be counted  
34 toward meeting that electrical corporation's renewables portfolio  
35 standard. For purposes of this subdivision, "renewable energy  
36 credit" and "renewables portfolio standard" have the same  
37 meanings as defined in Section 399.12.

38 (4) For energy that is unallocated to a benefiting account during  
39 the previous billing period, the recipient electrical corporation  
40 shall pay the provider the current default load aggregation point



1 price plus the renewable energy credit value and receive any  
2 renewable energy credits associated with that energy.

3 (d) (1) A pilot program of 500 megawatts of alternating current  
4 rated nameplate generating capacity of shared renewable energy  
5 facilities shall be made available during the 18-month period  
6 beginning March 1, 2015, and ending July 1, 2016. Each electrical  
7 corporation's proportionate share of the program's total capacity  
8 shall be calculated based on the ratio of the electrical corporation's  
9 peak demand compared to the total statewide peak demand.

10 (2) On or before March 1, 2015, each electrical corporation  
11 shall submit a proposal to the commission for how to allocate the  
12 initial available capacity. Within 60 days of receipt of these  
13 proposals, the commission shall adopt rules for the allocation of  
14 the initial available capacity amongst the electrical corporations  
15 and to establish a transparent process for evaluating and ranking  
16 applications for shared renewable energy facility projects and  
17 awarding the initial capacity to those projects.

18 (3) Of the initial pilot program capacity:

19 (A) Twenty percent shall be reserved for projects of a size no  
20 greater than one megawatt of alternating current, constructed in  
21 areas previously identified by the California Environmental  
22 Protection Agency as the most impacted and disadvantaged  
23 communities for opportunities related to this chapter. These  
24 communities shall be identified as census tracts that are identified  
25 within the top 20 percent of results from the best available  
26 cumulative impact screening methodology by considering the  
27 following categories:

28 (i) Areas disproportionately affected by environmental pollution  
29 and other hazards that can lead to negative public health effects,  
30 exposure, or environmental degradation.

31 (ii) Areas with socioeconomic vulnerability.

32 (B) Twenty percent shall be reserved for initial subscription by  
33 residential customers.

34 (C) (i) The commission, when establishing the initial facility  
35 rates, may adjust the rates for those participants receiving a bill  
36 credit for the generation by a shared renewable energy facility  
37 described in subparagraph (A), until the total cumulative nameplate  
38 generating capacity of those facilities reaches 100 megawatts of  
39 alternating current, provided that any cost shift associated with an  
40 adjusted facility rate impacts only other program participants.

(ii) The commission, when establishing the initial facility rates, may adjust the rates for residential customers until the total cumulative interests of residential customers reaches 100 megawatts of alternating current rated nameplate generating capacity, provided that any cost shift associated with an adjusted facility rate impacts only other program participants.

~~(4) No shared renewable energy facilities under this program may be sited on lands that have held, within the previous five years, a land use designation of prime farmland as defined by the Department of Conservation's Farmland Mapping and Monitoring Program pursuant to Section 65570 of the Government Code, except when the designation has been reclassified to one congruent to the use of the site for the purposes of this chapter by either the Farmland Mapping and Monitoring Program, or via a public process conducted by the relevant local land use management planning authority.~~

(e) Each electrical corporation shall make awards allocating rated generating capacity pursuant to the program in the following manner:

(1) (A) Each electrical corporation shall, by January 1, 2015, submit a proposed standard contract with providers for commission approval. The commission shall utilize the Tier 2 advice letter procedure for approval of a standard contract submitted by an electrical corporation.

(B) The proposed standard contract shall be based on the electrical corporation's standard contract used for the commission's most recently approved renewable auction mechanism program. Each electrical corporation shall modify the contract to eliminate language irrelevant to this program, including, but not limited to, compensation and monthly payments, operating and development security, and time-of-day periods.

(2) A provider wishing to build a shared renewable energy facility shall remit a nonrefundable administrative fee of one dollar and fifty cents (\$1.50) per kilowatt of rated generating capacity to the electrical corporation with its application for an allocation of capacity. At any time, the commission shall have the authority to modify the rated generating capacity allocation mechanism, including, but not limited to, creating project ranking criteria, setting deposit requirements, and creating an award allocation methodology for prospective projects.

1 (3) A provider shall meet the following benchmarks and  
2 timelines for construction and operation of a shared renewable  
3 energy facility. Failure to do so shall result in the provider  
4 forfeiting the rated generating capacity awarded to it.

5 (A) ~~The~~A provider shall issue an unrestricted notice to proceed  
6 with construction of the shared renewable energy facility within  
7 180 days of the provider receiving an award allocating rated  
8 generating capacity from the electrical corporation.

9 (B) The shared renewable energy facility shall achieve  
10 commercial operation within 24 months of receiving an award  
11 allocating rated generating capacity pursuant to this subdivision.

12 (C) A provider shall receive an extension because of  
13 interconnection delays that are outside the provider's control, for  
14 a maximum extension of six months.

15 (D) A provider may receive a six-month extension for  
16 noninterconnection factors outside the control of the provider.

17 (4) The electrical corporation shall ensure that no single entity  
18 or its affiliates or subsidiaries is awarded more than 20 percent of  
19 any single calendar year's total cumulative rated generating  
20 capacity made available pursuant to this program.

21 (5) The commission shall maintain a public database that  
22 includes all of the following:

23 (A) All projects that have been approved for participation in  
24 the pilot program, their size, and where the projects are connecting  
25 to the transmission or distribution system.

26 (B) The nameplate generating capacity of those projects located  
27 in environmental justice areas described in subparagraph (A) of  
28 paragraph (3) of subdivision (d).

29 (C) The facility rates for shared renewable energy facilities that  
30 have achieved commercial operation.

31 (D) The proportion of shared renewable energy facilities  
32 subscribed to by residential customers.

33 (E) Any other data relative to the program that the commission  
34 considers suitable for disclosure to the public.

35 (f) (1) Once the initial 500 megawatts of cumulative rated  
36 generating capacity has been awarded for shared renewable energy  
37 facility projects, the commission shall evaluate the functioning of  
38 the program.

39 (2) By July 1, 2016, the commission shall conclude an evaluation  
40 of the program to date, to determine if the goals of the program

1 are being met, including, but not limited to, the goals of increasing  
2 access to renewable power and ensuring nonparticipant ratepayer  
3 indifference.

4 (3) Unless the commission determines that the program goals  
5 are not being met per the goals and timetable identified in  
6 paragraph (1) of subdivision (d), the commission shall authorize  
7 additional capacity to be made available under ~~this~~ *the* program  
8 in keeping with the stated legislative intent, and determine the  
9 capacity allocation and manner of participation by residential  
10 customers and the capacity allocation for developing projects in  
11 areas specified in ~~subparagraphs subparagraph (A) and (B)~~ of  
12 paragraph (3) of subdivision (d).

13 (4) If the commission determines that one or more of the goals  
14 are not being met, the commission shall revise the program prior  
15 to authorizing additional capacity. Revisions may include  
16 increasing customer disclosure information or other safeguards to  
17 ensure customer protection, revising capacity set-asides for  
18 customer classes or project sizes to increase customer access to  
19 the program, alterations in the bill credit mechanism in paragraph  
20 (1) of subdivision (c) to ensure shared renewable energy facilities  
21 are financially viable through this program while ensuring that all  
22 ratepayers are paying for the benefits they receive from this  
23 program, or other revisions the commission deems necessary to  
24 ensure the program goals can be met. After the commission has  
25 revised the program, the commission may authorize additional  
26 capacity to be released provided in accordance with paragraph (2)  
27 of subdivision (d).

28 (5) Following completion of the pilot program, the commission  
29 may evaluate the program at any time, either on its own motion  
30 or upon *the* motion ~~by~~ *of* an interested party, and may modify or  
31 adopt any rules it determines to be necessary or convenient to  
32 ensure that program goals can be met.

33 (6) An electrical corporation shall comply with the requirements  
34 applicable to protection of the right to commercial free speech  
35 described in Commission Decision 10-05-050 as applied to the  
36 development, sale of subscriptions, and operation of shared  
37 renewable energy facilities. Shared renewable energy facilities  
38 may file a complaint with the commission for violation of this  
39 paragraph.

(7) If requested by a city, county, or city and county, an electrical corporation shall annually provide the city, county, or city and county with the annual total generation of each shared renewable energy facility in that local jurisdiction and the annual aggregated total generation, by fuel type, allocated to benefiting accounts in that local jurisdiction from all shared renewable energy facilities, regardless of their location. The benefiting account data shall be aggregated in a manner determined by the commission to protect customer privacy and to provide a city, county, or city and county with the information necessary to calculate greenhouse gas emissions from energy consumption within its jurisdiction supplied by shared renewable energy facilities. The commission may develop alternative methods to enable the sharing of annual total generation information.

(g) (1) The tariff applicable to a participant shall remain the same, with respect to rate structure, all retail rate components, and any monthly charges, to the charges that the participant would be assigned if the participant did not receive a bill credit. Participants shall not be assessed standby charges on the shared renewable energy facility or the kilowatthour generation of a shared renewable energy facility.

(2) Prior to the sale or resale of an interest in a shared renewable energy facility, the provider or the participant, or both, shall provide a disclosure to the potential participant that, at a minimum, includes all of the following:

(A) A good faith estimate of the annual kilowatthours to be delivered by the shared renewable energy facility based on the size of the interest.

(B) A plain language explanation of the terms under which the bill credits will be calculated.

(C) A plain language explanation of the contract provisions regulating the disposition or transfer of the interest.

(D) A plain language explanation of the costs and benefits to the potential participant based on its current usage and applicable tariff, for the term of the proposed contract.

(3) Not more frequently than once per month, and upon providing the electrical corporation with a minimum of 30 days' notice, the participant organization may change, add, or remove a benefiting account. If the owner of a benefiting account transfers service to a new address or benefiting account, the electrical

1 corporation shall transfer any credit remaining from the previous  
2 account to the new account.

3 (4) A provider shall be responsible for providing to the electrical  
4 corporation, on a monthly basis, a statement of the kilowatthours  
5 allocated to each participant to be used to determine the bill credit  
6 to each benefiting account. If there has been no change in the  
7 allocations from the previous submission, the provider is not  
8 required to submit a new statement. An electrical corporation may  
9 rely on the statement of kilowatthours allocated to each participant,  
10 as provided by the provider, in implementing the requirements of  
11 this chapter.

12 (5) ~~The~~ A provider shall provide real-time meter data to the  
13 electrical corporation and shall make the data available to a  
14 participant upon request. A provider shall be responsible for all  
15 costs of metering and shall retain production data for a period of  
16 36 months.

17 (6) A provider shall provide to the electrical corporation  
18 information on the identity of the benefiting accounts that will  
19 receive a bill credit pursuant to this section not less than 30 days  
20 prior to the billing cycle for which the participant's account will  
21 receive a bill credit.

22 (7) A provider shall provide not less than 60 days' notice to the  
23 electrical corporation prior to the date the shared renewable energy  
24 facility becomes operational and shall execute all necessary  
25 interconnection agreements, participation, and surplus sale  
26 agreements with the electrical corporation and the Independent  
27 System Operator on a schedule required by those entities.

28 (8) Unless the electrical corporation will be registering  
29 renewable energy credits on behalf of the participant, the provider  
30 shall establish an account and register the shared renewable energy  
31 facility with the Western Renewable Energy Generation  
32 Information System or its successor.

33 (9) The provider's interconnection process and cost allocation  
34 for facilities built under this section shall be determined by  
35 applicable rules for interconnection established by the commission  
36 and the Independent System Operator.

37 (10) An electrical corporation shall ensure that requests for  
38 establishment of bill credits and changes to benefiting accounts  
39 are processed in a time period not to exceed 30 days from the date  
40 it receives the request.

1 (11) An electrical corporation shall cooperate fully with shared  
2 renewable energy facilities to implement this chapter.

3 (12) The commission shall not regulate the prices paid by the  
4 participant for an interest in a shared renewable energy facility,  
5 but may enforce the required disclosures, and may establish rules  
6 applicable to providers to ensure consumer protection. Any  
7 interested person or corporation may file a complaint with the  
8 commission contending that a provider or electrical corporation  
9 is not complying with any requirement of this chapter and seek an  
10 order of the commission to enforce the requirements of this chapter  
11 and to take whatever steps are necessary to ensure consumer  
12 protection and compliance with the requirements of this chapter.

13 (h) (1) The electrical corporation may petition the commission  
14 to incorporate in its bill those charges by the provider to  
15 participants, provided that the electrical corporation recovers all  
16 incremental costs of providing that service and provided that the  
17 provider elects to use this service.

18 (2) Unless the electrical corporation elects to provide the service  
19 of incorporating in its bill those charges by the provider to the  
20 participant pursuant to paragraph (3), the following process shall  
21 be used when billing and crediting a benefiting account:

22 (A) An electrical corporation shall bill a benefiting account for  
23 all electricity usage, and for each applicable bill component,  
24 including, but not limited to, transmission and distribution charges,  
25 at the rate schedule applicable to the benefiting account, including  
26 any cost-responsibility surcharge or other cost recovery mechanism,  
27 as determined by the commission, to reimburse the Department  
28 of Water Resources for purchases of electricity pursuant to Division  
29 27 (commencing with Section 80000) of the Water Code.

30 (B) An electrical corporation shall subtract the bill credit  
31 applicable to the benefiting account monthly. The electrical  
32 corporation shall ensure that the participant receives the full bill  
33 credit to which it is entitled. The information and line items on a  
34 participant's bill statement will be unchanged, except one or more  
35 entries detailing the bill credit that shall be added to a participant's  
36 bill.

37 (C) If, at the end of each billing cycle, the total otherwise  
38 applicable energy component of the bill exceeds the bill credit,  
39 the benefiting account shall be billed for the difference.

(D) If, at the end of a billing cycle, the bill credit exceeds the energy component of the amount billed to the account, the difference shall be carried forward as a dollar credit to the next billing cycle. Any earned credit that exceeds the energy component of the bill shall roll over to the subsequent billing period and shall continue to roll over until used or until the annual anniversary date of the participant's initial bill credit, whichever occurs first. On the annual anniversary date of the participant's initial bill credit, any remaining bill credit earned during the previous year and that remains after the application of bill credits to the energy component of a participant's bills shall cease to roll over and will be subject to a default load aggregation point price true-up. The default load aggregation point price true-up shall be calculated by converting the remaining unused bill credits to kilowatthours, by dividing the unused bill credits by the monetary value of a bill credit, and then multiplying the kilowatthours by the default load aggregation point price. The amount calculated doing the default load aggregation point price true-up is owed by the electrical corporation to the participant. The commission shall determine whether the default load aggregation point price true-up is to be paid to participants or credited to future billings and, if so, the manner of crediting.

(3) If the electrical corporation elects to incorporate in its bill those charges by the provider to the participant, the following process shall be used for the bundled electric service customers of the electrical corporation:

(A) The provider shall convey ownership of the electricity generated by the shared renewable energy facility that passes through the meter and is delivered to the transmission or distribution grid (delivered electricity) to the electrical corporation under terms and conditions determined between the provider and the electrical corporation, pursuant to paragraph (1) of subdivision (e).

(B) Unsubscribed delivered electricity shall be sold to the electrical corporation at the default load aggregation point price plus the renewable energy credit value. The electrical corporation shall receive credit under the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1) for all delivered electricity purchased pursuant to this subparagraph, without the need for further qualifying action.



1 (C) The electrical corporation shall charge the participant for  
2 service under each benefiting account at the electrical corporation's  
3 otherwise applicable tariff.

4 (D) The electrical corporation shall provide the participant with  
5 a bill credit based on the allocated share of delivered electricity  
6 and shall collect revenue from the participant commensurate with  
7 the participant's contract with the provider.

8 (E) The electrical corporation, within 60 days, shall remit to the  
9 participant organization the revenue collected from participants  
10 through billings pursuant to subparagraph (D).

11 (4) Nothing in paragraph (3) requires a particular bill format or  
12 the inclusion of any specific separate billing line items.

13 (5) The commission shall, by January 1, 2015, determine  
14 whether customers participating in direct transactions may receive  
15 bill credits equivalent to what would be provided to bundled  
16 electric service customers of a participating electrical corporation  
17 pursuant to this chapter, and, if so, shall implement rules and  
18 procedures for enabling those transactions. These particular  
19 transactions may include those with an electric service provider  
20 that does not provide distribution services and, customers receiving  
21 electric service through a community choice aggregation program.

22 (i) (1) To ensure the maximum systemic benefit from shared  
23 renewable energy facilities under this chapter, electrical  
24 corporations shall provide to the commission, prior to the release  
25 of capacity, maps indicating locations in their service territory  
26 where the addition of capacity would reduce line loss, lower  
27 transmission capacity constraints, and defer or avoid transmission  
28 and distribution network upgrades and construction. The  
29 commission may adopt guidance in determining criteria for the  
30 awarding of capacity in a manner as to reflect these benefits. The  
31 commission shall also ensure that projects being awarded capacity  
32 under the program are subject to protections consistent with those  
33 afforded under the California Renewables Portfolio Standard  
34 Program (Article 16 (commencing with Section 399.11) of Chapter  
35 2.3 of Part 1).

36 (2) The commission shall ensure full and timely recovery of all  
37 reasonable costs incurred by an electrical corporation to implement  
38 the program, including reasonable expenses for changes to its  
39 billing system and handling of collections, and shall determine the  
40 appropriate method of allocating those costs. The commission

1 shall approve a memorandum account to track billing system and  
2 implementation costs, as well as revenue from provider project  
3 applications, and may not direct an electrical corporation to conduct  
4 any billing system work prior to approval of the memorandum  
5 account.

6 (3) In calculating its procurement requirements to meet the  
7 requirements of the California Renewables Portfolio Standard  
8 Program (Article 16 (commencing with Section 399.11) of Chapter  
9 2.3 of Part 1), an electrical corporation may exclude from total  
10 retail sales the kilowatthours generated by a shared renewable  
11 energy facility commencing with the point in time at which the  
12 facility achieves commercial operation.

13 (4) The local and system resource adequacy value attributable  
14 to a shared renewable energy facility, as determined by the  
15 commission pursuant to Section 380, shall be assigned to the  
16 electrical corporation to which the facility is interconnected.

17 SEC. 6. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.